

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING PHYSICIAN SELF-REFERRAL OF PATIENTS;
PROVIDING EXCEPTIONS AND PENALTIES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Prohibited physician self-referral of patients -- exceptions -- penalty.

(1) Except as otherwise provided in this section, a treating physician may not refer a patient for health care services or supplies to a health care facility, medical laboratory, diagnostic imaging center, radiation oncology center, or commercial establishment at which the physician does not directly provide care or services when the physician has an investment interest in the facility.

(2) Subsection (1) does not apply if:

(a) the services or supplies required by the patient are not otherwise available within a 30-mile radius of the office of the physician;

(b) the physician is a member of a group practice and the referral is made to that group practice that supplies services in the office where the physician regularly practices medicine; or

(c) the referral is made by:

(i) a urologist for lithotripsy services; or

(ii) a nephrologist for services and supplies for a renal dialysis.

(3) A physician who violates the provisions of this section is guilty of a misdemeanor for each referral.

(4) The provisions of this section do not prohibit a physician from owning and using equipment in the physician's office solely to provide health care services or supplies to the physician's patients.

(5) Until July 1, 2010, the prohibition in subsection (1) does not apply to existing health care facilities, whether or not the public is allowed access to those places, provided that:

(a) the existing arrangement does not provide for expansion of the number of physician investors, expansion in the scope of services offered, or growth in the number of licensed beds;

(b) the existing health care facility is in a primary service area that has one or more full-service community hospitals or critical access hospitals to avoid damaging access to a broader range of services in

1 limited-population or rural areas;

2 (c) the existing health care facility establishes relationships with other community hospitals and health
3 care providers to ensure specialty on-call and financial support for maintaining comprehensive 24-hour-a-day
4 emergency services in the community on a year-round basis, written procedures for the appropriate transfer of
5 patients requiring services not available at the health care facility, and procedures to ensure appropriate
6 post-acute care from other providers;

7 (d) the existing health care facility participates in medicare and medicaid;

8 (e) the existing health care facility has an internal utilization review and quality assurance mechanism
9 to ensure that patients are receiving only needed care and are being referred for appropriate post-acute care;
10 and

11 (f) physicians with a financial interest in an existing health care facility disclose their interest both to the
12 patients they refer to their own facility and to the community at large in which they provide care.

13 (6) As used in this section, the following definitions apply:

14 (a) "Group practice" means two or more physicians organized as a business entity in accordance with
15 the laws of this state to provide health care services if:

16 (i) each member of the group practice provides substantially all of the health care services that the
17 physician routinely provides, including but not limited to medical care, consultations, diagnoses, and treatment,
18 through the joint use of shared offices, facilities, equipment, and personnel located at any site of the group
19 practice;

20 (ii) substantially all of the health care services that are provided by the members of the group practice
21 are provided through the group practice; and

22 (iii) no member of the group practice receives compensation based directly on the volume of any health
23 care services or supplies that are referred to the group practice by that member.

24 (b) "Patient" means a person who consults with or is examined or interviewed by a physician or health
25 care facility for purposes of diagnosis or treatment.

26 (c) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and
27 who has a valid license to practice medicine or osteopathic medicine in this state.

28
29 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
30 integral part of Title 37, chapter 2, part 3, and the provisions of Title 37, chapter 2, part 3, apply to [section 1].

1

2 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2007.

3 - END -